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Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JEFORY MASHBURN, On Behalf of Minor  
CM, JOSEPH CORNELISON, On Behalf of  
Minor, RC, DARCY TUTTORO, On Behalf  
of Minor JT, NATHANAEL WILLIAMS,  
AMY HINMON, BRENDA NYHART, On  
Behalf of Minor, JL, All individually and on  
behalf of a class of others similarly situated,

Plaintiffs,

v.

YAMHILL COUNTY, TIM LOEWEN, both  
individually and in his official capacity as  
Director, CHUCK VESPER, both  
individually and in his official capacity as  
Division Manager,

Defendants.

No. CV08-718 HU

CONCISE STATEMENT OF  
MATERIAL FACTS IN SUPPORT  
OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

Pursuant to Local Rule 56.1(a)(2), defendants Yamhill County, Tim Loewen and Chuck  
Vesper submit the concise statement of material facts in support of their motion for summary  
judgment.

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SUPPORT OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

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1. Yamhill County Juvenile Detention Center maintains a written policy stating unclothed searches of juveniles will be conducted of all juveniles admitted in the Yamhill County Juvenile Detention Center (hereinafter "YCJDC"). Policy Number 3.4 of Chapter 3.0 of the Yamhill County Juvenile Corrections Division Policy and Procedures Manual contains the official Yamhill County policy with respect to unclothed searches of juveniles. (Aff. Steven A. Kraemer, ¶ 3, Ex.1). This policy was in effect at all times relevant to this lawsuit and at all times mentioned in plaintiffs' complaint. (Aff. Charles G. Vesper, ¶ 2). The objective of this policy is to prevent the introduction of weapons or other dangerous contraband into the facility, to discover hazards to health or safety that may go unnoticed during the Intake screening process and to remove items of clothing that might be used to inflict self-injury. (Aff. Charles G. Vesper, ¶ 7).

2. Juveniles are only admitted to YCJDC pursuant to a detailed intake process in compliance with ORS 419C.145. (Aff. Charles G. Vesper, ¶ 5, Aff. Timothy Loewen, ¶5). This detailed intake process is contained in Policy Number 2.3 of Chapter 2.0 of the Juvenile Corrections Division Policy and Procedures Manual. (*Id.*).

3. When an unclothed body search is conducted in the Yamhill County Juvenile Detention Center, it is conducted in a manner that affords the individual being searched privacy. (Aff. Charles G. Vesper, ¶ 6). Only male Juvenile Corrections Technicians and Specialists are permitted to observe or participate in the unclothed body search of male arrestees and only female Juvenile Corrections Technicians and Specialists are permitted to observe or participate in the unclothed search of female arrestees. *Id.* When a person is subject to an unclothed body search, they are not touched by any

Juvenile Corrections Technician or Specialist. *Id.* The unclothed search does not involve a body cavity search. *Id.*

4. During unclothed searches, YCJDC Juvenile Corrections Technicians and Specialists have discovered drugs and items which juveniles could use to harm themselves. (Aff. Charles G. Vesper, ¶ 9). The implementation and practice of YCJDC's unclothed search policy has significantly curtailed the flow of contraband, weapons and other illegal items into YCJDC. (*Id.* at ¶ 8).

5. During unclothed searches, YCJDC Juvenile Corrections Technicians and Specialists have discovered numerous incidents of abuse, self-harm and medical issues. (*Id.* at ¶ 10 and 14). In fact, between the years of 2004 and 2008, 1 in 5 strip searches revealed either abuse, self-harm or a medical condition. (*Id.* at ¶ 11).

6. Plaintiff CM was arrested on February 22, 2007 and charged with Sexual Abuse in the First Degree. (Complaint, ¶ 35). Sexual Abuse in the First Degree is a Class B Felony involving an element of violence. ORS 163.427(2). An unclothed search of plaintiff CM was performed prior to his entry into YCJDC.

7. During his intake strip search, the Juvenile Corrections Technician or Specialist noticed that plaintiff CM had what he thought was several bruises on CM's body. (Aff. Steven A. Kraemer, ¶ 13, Ex. 11). The Juvenile Corrections Technician or Specialist asked plaintiff CM about the bruises to which plaintiff CM replied it was a skin disease. (*Id.*)

8. Plaintiff RC was arrested on February 22, 2007 and charged with Sexual Abuse in the First Degree. (Complaint, ¶ 35). Sexual Abuse in the First Degree is a Class B Felony involving an

element of violence. ORS 163.427(2). An unclothed search of plaintiff RC was performed prior to his entry into YCJDC.

9. Plaintiff Amy Hinmon was arrested on November 3, 2006 and charged with Failure to Appear on Minor in Possession and Contempt Hearing for Failing to Complete Evaluation. (Complaint ¶ 40). The underlying charge for the Contempt Hearing involved drugs or alcohol. (Aff. Steven A. Kraemer, ¶ 6, Ex. 4). An unclothed search of plaintiff Amy Hinmon was performed prior to her entry into YCJDC.

10. During the intake strip search of Ms. Hinmon on November 3, 2006, the Juvenile Corrections Technician noticed that Ms. Hinmon had several bruises on her body. (*Id.* at ¶ 8, Ex. 6). The Juvenile Corrections Technician asked Ms. Hinmon about the bruises to which Ms. Hinmon replied that she had a low blood pressure problem which caused her to fall a lot making her bruise. (*Id.*).

11. Plaintiff JL was arrested on August 31, 2007 and charged with Encouraging Child Abuse I and II. (Complaint, ¶ 45). Encouraging Child Sexual Abuse in the First Degree is a Class B Felony that might involve an element of violence. ORS 163.684(2). In addition, JL had a prior arrest on July 9, 2007 for Carrying a Concealed Weapon. (Aff. Steven A. Kraemer, ¶ 7, Ex. 5). The crime of Carrying a Concealed Weapon involves an element of violence. ORS 166.240. An unclothed search of plaintiff JL was performed prior to his entry into YCJDC.

12. Plaintiff Nathanael Williams was arrested on June 15, 2006 and charged with Robbery 3, Theft 3, Minor in Possession of Alcohol, Criminal Trespass and Harassment. (Complaint, ¶ 50). The crimes of Robbery 3 and Harassment involve elements of violence. ORS 164.395 and ORS 166.065.

An unclothed search of plaintiff Nathanael Williams was performed prior to his entry into YCJDC.

13. During the strip search of Mr. Williams on June 15, 2006, several burn scars were discovered on Mr. Williams' hands, arms, stomach and legs. (Aff. Steven A. Kraemer, ¶ 9, Ex. 7). Mr. Williams admitted that he had inflicted these burns on himself. (*Id.*).

14. Plaintiff Nathanael Williams was arrested on August 2, 2006 and charged with Minor in Possession of Tobacco, Nighttime Curfew Violation and Criminal Trespass. (Complaint, ¶ 50). Mr. Williams had previously been arrested on June 15, 2006 for crimes involving elements of violence as described above. An unclothed search of plaintiff Nathanael Williams was performed prior to his entry into YCJDC.

15. Plaintiff Nathanael Williams was also placed in the Imminent Risk category when he was admitted into YCJDC on August 2, 2006. (Aff. Steven A. Kraemer, ¶ 11, Ex. 9 and ¶ 12, Ex. 10).

DATED this 8<sup>th</sup> day of June, 2009.

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